

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-111V

Filed: August 24, 2022

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CAMILA WAGNER,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

Emily Beth Ashe, Esq., Anapol Weiss, Philadelphia, PA, for petitioner.

Meghan Murphy, Esq., US Department of Justice, Washington, DC, for respondent.

UNPUBLISHED

Decision on Joint Stipulation;
Guillain-Barré Syndrome
("GBS"), Chronic
Inflammatory Demyelinating
Polyneuropathy ("CIDP");
Influenza ("flu") Vaccine.

DECISION ON JOINT STIPULATION¹

Roth, Special Master:

On January 31, 2020, Camila Wagner ["Ms. Wagner or "petitioner"] filed a petition for compensation under the National Vaccine Injury Compensation Program.² Petitioner alleges that she developed Guillain-Barré Syndrome ("GBS"), Chronic Inflammatory Demyelinating

¹ Although this Decision has been formally designated "unpublished," it will nevertheless be posted on the Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). **This means the Decision will be available to anyone with access to the internet.** However, the parties may object to the Decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public. *Id.*

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Polyneuropathy (“CIDP”), and other subsequent severe injuries after receiving the influenza (“flu”) vaccination on October 3, 2017. Stipulation, filed August 24, 2022, at ¶¶ 1-4. Respondent denies that the aforementioned immunization caused petitioner’s injury. Stipulation at ¶ 6.

Nevertheless, the parties have agreed to settle the case. On August 24, 2022, the parties filed a joint stipulation agreeing to settle this case and describing the settlement terms.

Respondent agrees to issue the following payment:

- A. A lump sum of \$155,000.00 in the form of a check payable to petitioner, Camila Wagner; and**
- B. A lump sum of \$84,309.34, representing reimbursement of a Medicaid lien for services rendered to petitioner by the State of Colorado, in the form of a check payable jointly to petitioner, Camila Wagner, and the Colorado Department of Health Care Policy and Financing:**

**Colorado Medical Assistance
Tort and Casualty Recovery Program
333 W. Hampden Ave., Suite #425
Englewood, CO 80110
Tort Case Number: 218509**

This amount represents compensation for all damages that would be available under § 300aa-15(a).

I adopt the parties’ stipulation attached hereto, and award compensation in the amount and on the terms set forth therein. The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/ Mindy Michaels Roth
Mindy Michaels Roth
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

CAMILA WAGNER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 20-111V
Special Master Roth
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. Camila Wagner ("petitioner"), filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of an influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).

2. Petitioner received a flu vaccine on October 3, 2017.

3. The vaccine was administered within the United States.

4. Petitioner alleges that she suffered from Guillain-Barré Syndrome ("GBS"), chronic inflammatory demyelinating polyneuropathy ("CIDP"), and other subsequent severe injuries, that were caused-in-fact by the flu vaccine. She further alleges that she experienced the residual effects of these conditions for more than six months.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on her behalf as a result of her alleged injury.

6. Respondent denies that the vaccine caused petitioner's alleged GBS, CIDP, or any other injury; and denies that her current condition is a sequela of a vaccine-related injury.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payment:

- A. A lump sum of **\$155,000.00** in the form of a check payable to petitioner; and
- B. A lump sum of **\$84,309.34**,¹ representing reimbursement of a Medicaid lien for services rendered to petitioner by the State of Colorado, in the form of a check payable jointly to petitioner and the Colorado Department of Health Care Policy and Financing:

Colorado Medical Assistance
Tort and Casualty Recovery Program
333 W. Hampden Ave., Suite #425
Englewood, CO 80110
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Petitioner agrees to endorse this check to the Colorado Department of Health Care Policy and Financing. These amounts represent compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

¹ This amount represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Colorado may have against any individual as a result of any Medicaid payments the Colorado Program has made to or on behalf of petitioner, Camila Wagner, as a result of her alleged vaccine-related injury suffered on or about December 4, 2017, under Title XIX of the Social Security Act, *see* 42 U.S.C. § 300aa-15(g), (h).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Petitioner and her attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or by entities that provide health services on a pre-paid basis.

11. Payment made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorney's fees and litigation costs, and past unreimbursable expenses, the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and on behalf of her heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands

of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the flu vaccination administered on October 3, 2017, as identified in a petition for vaccine compensation filed on or about January 31, 2020, in the United States Court of Federal Claims as petition No. 20-111V.

14. If petitioner should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

15. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.

16. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

17. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the flu vaccine caused petitioner's alleged GBS,

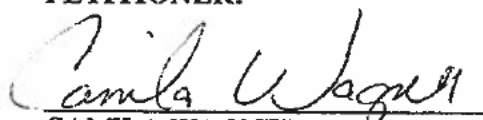
CIDP, or any other injury or her current disabilities, or that petitioner suffered an injury contained in the Vaccine Injury Table.

18. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.

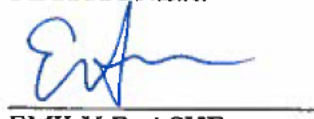
END OF STIPULATION

Respectfully submitted,

PETITIONER:


CAMILA WAGNER

**ATTORNEY OF RECORD FOR
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**AUTHORIZED REPRESENTATIVE
OF THE SECRETARY OF HEALTH
AND HUMAN SERVICES:**

George R.
Grimes -S14

Digitally signed by George R.
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Date: 2022.08.03 09:13:28 -04'00'

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Dated: 8/24/22